IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2007

CORAM

THE HON'BLE MR.JUSTICE P.D. DINAKARAN

Civil Miscellaneous Appeal No.1829 of 2000

1.Kalaichelvi
2.Minor Kannaki
3.Minor Renuga
4.Minor Gayathir
5.Minor Kanimozhi
6.Lakshmi

Minors 3 to 6 rep. By their mother and
guardian Kalaichelvi.

... Appellants/Petitioners

vs.

1. T.Elamasivan

2. United India Insurance Co.,
Main Road, Cuddalore.

... Respondents/Respondents

Appeal against the order and decree dated 27.1.2000 made in M.C.O.P.No.219 of 1995 on the file of the Motor Accident Claims Tribunal (Sub Court), Vridhachalam.

For Appellants : Mr.S.Udayakumar
For Respondent No.2 : Mr.S.Udayakumar SCGSC
For Respondent No.1: No Appearance

J U D G M E N T

The above appeal is directed against the award dated 27.1.2000 made in M.C.O.P.No.219 of 1995 on the file of the Motor Accident Claims Tribunal (Sub Court), Vridhachalam.

2. The claimants are the appellants. In the accident that took place on 13.7.1993, one Kasirajan, who originally filed the claim petition, suffered injuries and lost consciousness. While he was taking treatment, he died in the hospital itself on 14.10.1996. The

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appellant/claimants, who are his widow, children and mother claimed Rs.3,00,000/- as compensation. The Tribunal awarded a sum of Rs.70,000/- against which the present appeal has been filed by the claimants for enhancement of compensation.

3. The learned counsel for the appellants mainly argued that the Tribunal has failed to consider that the deceased was inpatient all along and the deceased was the only earning member of his family.

4. Considering the evidence on record, the Tribunal fixed a sum of Rs.18,000/- as annual income of the deceased, whereas a sum of Rs.2000/- is claimed as monthly income of the deceased. The 2nd petitioner/claimant, as P.W.1, has deposed that the deceased earned a sum of Rs.100/- per day. Though the first respondent in his evidence claimed that he used to pay a sum of Rs.15/- per day as coolie to the deceased, the Tribunal has not accepted his evidence.

5. The deceased was, admittedly, a coolie. Though in the petition a sum of Rs.2000/- is shown as his monthly income, the 2nd claimant a P.W.1 has deposed that he earned a sum of Rs.100/- per day. Considering the fact that the deceased, who was 30 years old at the time of accident, was earning Rs.100/- per day as evident from P.W.1, I am of the view that a sum of Rs.2000/- would be taken as his monthly contribution. Accordingly, the claimants are entitled to a sum of Rs.72,000/- towards loss of income, instead of Rs.54,000/- as awarded by the Tribunal.

6. Besides, considering the fact that the deceased was in various hospitals all along, I am of the view, the claimants are entitled to a sum of Rs.20,000/- towards medical expenses, Rs.10,000/- towards nutritious food and Rs.10,000/- towards transport charges, though the Tribunal has awarded a total sum of Rs.10,000/- under all the above heads. Further, a sum of Rs.8,000/- is awarded towards attender expenses instead of Rs.6000/- as awarded by the Tribunal. In all, the claimants are entitled to compensation of a sum of Rs.1,20,000/- with interest at the rate fixed by the Tribunal, in which the claimants are entitled to an equal share. Regarding deposit of minors' share, the order of the Tribunal shall stand.

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7. In the result, the appeal is partly allowed, increasing the the award from Rs.70,000/- to Rs.1,20,000/-as indicated above. However there is no order as to costs in the appeal.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

na.

To

1. The Motor Accident Claims Tribunal
Subordinate Judge,Vridhachalam. (with records if any)

2.The Record Keeper
V.R. Section High Court Madras.

+1cc to M/s.S.Udayakumar, Advocate Sr 13238
+1cc to M/s.S.Udayakumar, Advocate Sr 12943

GK (CO)
km/30.3.

C.M.A.No.1829 of 2000

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